



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 31 2002

In re PATENT APPLICATION OF

DUNICAN et al.

Group Art Unit: 1652

Appln. No.: 09/531,266

Examiner: D. STEADMAN

TECH CENTER 1600/2900

Filed: March 20, 2000

Title: NEW NUCLEOTIDE SEQUENCES WHICH CODE FOR THE TAL GENE

October 28, 2002

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**DECLARATION OF BIOLOGICAL DEPOSIT
IN COMPLIANCE WITH THE BUDAPEST TREATY**

Hon. Commissioner for Patents

Washington, D.C. 20231

Sir:

I, Thomas A. Cawley, Jr., hereby state as follows:

1. I am an attorney of record for the above-identified patent application, and as such I am authorized to act on behalf of Degussa AG, the assignee of the application.

2. Degussa AG is the assignee of the above-identified patent application as evidenced by an assignment from Degussa Hüls AG that was recorded in the United States Patent and Trademark Office on October 6, 2001, at Reel 012322, Frame 0909; Degussa Hüls AG was the prior assignee of the above-identified patent application as evidenced by an assignment from the inventors that was recorded in the United States Patent and Trademark Office on April 11, 2001, at Reel No. 011684, Frame No. 0183.

3. A *Escherichia coli* JM109/pSUZ1 was deposited with the DSMZ-Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH (DSM) under the terms of the Budapest Treaty on January 26, 2000, and assigned accession no. DSM 13263.

4. DSM is a depository in accordance with the Budapest Treaty for the above-deposited cultures. Should the cells mutate, become non-viable, non-functional, or be inadvertently destroyed, the assignee will replace such cells for at least thirty years from the date of the original deposit, or for at least five years from the date of the most recent request

for release of a sample, or for the enforceable life of any patent issued on the above-identified application, whichever period is longest.

5. The deposits have been made under conditions of assurance of (a) ready accessibility thereto by the public if an enforceable patent is granted whereby all restrictions to the availability to the public of the cell lines so deposited will be irrevocably removed upon the granting of the patent, and (b) access to the cell lines will be available during pendency of the patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under applicable statutes and regulations.

6. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Degussa AG

By



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